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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,870	05/18/2006	Robert-Jan Van De Rovert	022862-1099	3824
23409 7590 09/18/2009 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
SPISICH, MARK				
ART UNIT		PAPER NUMBER		
3727				
MAIL DATE		DELIVERY MODE		
09/18/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/579,870

## Applicant(s)

VAN DE ROVAART, ROBERT-JAN

## Examiner

Mark Spisich

## Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/82)  
Paper No(s)/Mail Date 5/18/2006 & 9/17/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 112***

2. Claims 5,6,7-10,14-16 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Given the fact that the reference numerals #26 and #28 have been used in claim 2 for the "lateral wing(s)", the subsequent use in claim 5 to a different portion/element is somewhat confusing. "Fixing element" (claim 7, line 5) lacks antecedent. Claim 8 should make it clear that the wings therein are the same ones already mentioned in claim 7. Something like "in that at least one of said lateral wings" would be ok.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9,11-14,17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2002-2455. '455 discloses a wiper arm for a windshield wiper system comprising a fixing element (3) for connection to a drive shaft (2) as well as a tiltably-fixed cover unit (11) pivoted (at 11d) to the fixing element and further characterized by

an engagement (between 3f and 11e in figures 4-8 and between 14 and 15 in figures 9-11) between the cover and the fixing element to fixed the cover in the tilted or "open" position. '455 also discloses a nose (11f) on each wing of the cover which engages a crosspiece (3i) on the fixing element.

5. Claims 1-9,11-14,17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsukamoto et al (US PUB 2002/0152575). '575 discloses a cover (61) for engagement with a fixing element (55) which is engaged with the fixing element which a structure that fixes the cover in the open position (see 14A and 14B and paragraph 0085). '575 further discloses a nose (68) and a crosspiece (67). Reference is also made to the international search report which applied '575.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10,15,16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EITHER JP 2002-2455 OR Tsukamoto et al (US PUB 2002/0152575) in view of Rogers et al (USP 4,318,201). With regard to the use of a glass fiber-reinforced plastic, the patent to Rogers discloses that such material is known for use in wiper devices (see column 7, lines 4-12). It would have been obvious to one of ordinary skill to have utilized any known material recognized in the art as suitable for the intended use.

**Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The numerous cited patents are each pertinent to wiper devices with a cover element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Spisich/  
Primary Examiner, Art Unit 3727

Mark Spisich  
Primary Examiner  
Art Unit 3727

/M. S./

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Primary Examiner, Art Unit 3727